

A
A
0
0
0
5
8
8
6
7
0
0





SPEECHES

DELIVERED BY

H. CLAY, OF KENTUCKY,

In the Senate of the United States, on the 19th of August, 1841,

ON

THE MESSAGE OF PRESIDENT TYLER, RETURNING THE BANK BILL, WITH HIS VETO,

AND

IN REPLY TO MR. RIVES, DEFENDING THE MESSAGE.

Mr. CLAY, of Kentucky, rose and addressed the Senate as follows :

Mr. PRESIDENT : The bill which forms the present subject of our deliberations had passed both Houses of Congress by decisive majorities, and, in conformity with the requirement of the Constitution, was presented to the President of the United States for his consideration. He has returned it to the Senate, in which it originated, according to the direction of the Constitution, with a message announcing his veto of the bill, and containing his objections to its passage. And the question now to be decided is, Shall the bill pass, by the required constitutional majority of two-thirds, the President's objections notwithstanding?

Knowing, sir, but too well that no such majority can be obtained, and that the bill must fall, I would have been rejoiced to have found myself at liberty to abstain from saying one word on this painful occasion. But the President has not allowed me to give a silent vote. I think, with all respect and deference to him, he has not reciprocated the friendly spirit of concession and compromise which animated Congress in the provisions of this bill, and especially in the modification of the sixteenth fundamental condition of the bank. He has commented, I think, with undeserved severity on that part of the bill; he has used, I am sure unintentionally, harsh, if not reproachful, language; and he has made the very concession, which was prompted as a peace offering, and from friendly considerations, the cause of stronger and more decided disapprobation of the bill. Standing in the relation to that bill which I do, and especially to the exceptionable clause, the duty which I owe to the Senate and to the country, and self-respect, impose upon me the obligation of at least attempting the vindication of a measure which has met with a fate so unmerited and so unexpected.

On the fourth of April last the lamented Harrison, the President of the United States, paid the debt of Nature. President Tyler, who, as Vice President, succeeded to the duties of that office, arrived in the city of Washington on the sixth of that month. He found the whole metropolis wrapt in gloom, every heart filled with sorrow and sadness, every eye streaming with tears, and the surrounding hills yet flinging back the echo of the bells which were tolled on that melancholy occasion. On entering the Presidential mansion he contemplated the pale body of his predecessor stretched before him, and clothed in the black habiliments of death. At that solemn moment I have no doubt that the heart of President Tyler was overflowing with mingled emotions of grief, of patriotism, and of gratitude—above all, of gratitude to that country by a majority of whose suffrages, bestowed at the preceding November, he then stood the most distinguished, the most elevated, the most honored of all living Whigs of the United States.

It was under these circumstances, and in this probable state of mind, that President Tyler, on the tenth day of the same month of April, voluntarily promulgated an Address to the People of the United States. That Address was in the nature of a coronation oath, which the Chief of the State, in other countries, and under

other forms, takes, upon ascending the throne. It referred to the solemn obligations, and the profound sense of duty, under which the new President entered upon the high trust which had devolved upon him, by the joint acts of the People and of Providence, and it stated the principles and delineated the policy by which he would be governed in his exalted station. It was emphatically a Whig Address, from beginning to end—every inch of it was Whig, and was patriotic.

In that Address the President, in respect to the subject-matter embraced in the present bill, held the following conclusive and emphatic language :

“ I shall *promptly* give my sanction to any constitutional measure which, *originating in Congress*, shall have for its object the restoration of a sound circulating medium, *so essentially necessary* to give confidence in all the transactions of life, to secure to *industry its just and adequate rewards*, and to *re-establish the public prosperity*. In deciding upon the adaptation of any such measure to the end proposed, *as well as its conformity to the Constitution*, I shall resort to the *Fathers of the great Republican school* for advice and instruction, to be drawn from their sage views of our system of government, and the light of their ever *glorious example*.”

To this clause in the Address of the President, I believe, but one interpretation was given throughout this whole country, by friend and foe, by Whig and Democrat, and by the presses of both parties. It was, by every man with whom I conversed on the subject at the time of its appearance, or of whom I have since inquired, construed to mean that the President intended to occupy the Madison ground, and to regard the question of the power to establish a national bank as immovably settled. And I think I may confidently appeal to the Senate, and to the country, to sustain the fact that this was the contemporaneous and unanimous judgment of the public. Reverting back to the period of the promulgation of the Address, could any other construction have been given to its language? What is it? “ I shall *promptly* give my sanction to any constitutional measure which, *originating in Congress*,” shall have certain defined objects in view. He concedes the vital importance of a sound circulating medium to industry and to the public prosperity. He concedes that its origin must be in Congress. And, to prevent any inference from the qualification which he prefixes to the measure, being interpreted to mean that a United States Bank was unconstitutional, he declares that, in deciding on the adaptation of the measure to the end proposed, and its *conformity* to the Constitution, he will resort to the Fathers of the great Republican school. And who were they? If the Father of his Country is to be excluded, are Madison, (the Father of the Constitution,) Jefferson, Monroe, Gerry, Gallatin, and the long list of Republicans who acted with them, not to be regarded as among those Fathers? But President Tyler declares not only that he should appeal to them for advice and instruction, but to the light of their ever glorious *EXAMPLE*. What example? What other meaning could have been possibly applied to the phrase, than that he intended to refer to what had been *done* during the administrations of Jefferson, Madison, and Monroe?

Entertaining this opinion of the Address, I came to Washington, at the commencement of the session, with the most confident and buoyant hopes that the Whigs would be able to carry all their prominent measures, and especially a Bank of the United States, by far that one of the greatest immediate importance. I anticipated nothing but cordial co-operation between the two departments of Government; and I reflected with pleasure that I should find at the head of the Executive branch a personal and political friend, whom I had long and intimately known, and highly esteemed. It will not be my fault if our amicable relations should unhappily cease, in consequence of any difference of opinion between us on this occasion. The President has been always perfectly familiar with my opinion on this bank question.

Upon the opening of the session, but especially on the receipt of the plan of a national bank, as proposed by the Secretary of the Treasury, fears were excited that

the President had been misunderstood in his Address, and that he had not waived but adhered to his constitutional scruples. Under these circumstances it was hoped that, by the indulgence of a mutual spirit of compromise and concession, a bank, competent to fulfil the expectations and satisfy the wants of the People, might be established.

Under the influence of that spirit, the Senate and the House agreed, 1st, as to the name of the proposed bank. I confess, sir, that there was something exceedingly *outrée* and revolting to my ears in the term "Fiscal Bank;" but I thought, "What is there in a name? A rose, by any other name, would smell as sweet." Looking, therefore, rather to the utility of the substantial faculties than to the name of the contemplated institution, we consented to that which was proposed.

2. As to the place of location of the bank. Although Washington had passed through my mind as among the cities in which it might be expedient to place the bank, it was believed to be the least eligible of some four or five other cities. Nevertheless, we consented to fix it here.

And, lastly, in respect to the branching power, there was not probably a solitary vote given in either House of Congress for the bill that did not greatly prefer the unqualified branching power, as asserted in the charters of the two former Banks of the United States, to the sixteenth fundamental condition, as finally incorporated in this bill. It is perfectly manifest, therefore, that it was not in conformity with the opinion and wish of majorities in Congress, but in a friendly spirit of concession towards the President and his particular friends, that the clause assumed that form. So repugnant was it to some of the best friends of a national bank in the other House, that they finally voted against the bill because it contained that compromise of the branching power.

It is true that, in presenting the compromise to the Senate, I stated, as was the fact, that I did not know whether it would be acceptable to the President or not; that, according to my opinion, each department of the Government should act upon its own responsibility, independently of the other; and that I presented the modification of the branching power because it was necessary to ensure the passage of the bill in the Senate, having ascertained that the vote would stand 26 against it to 25, if the form of that power which had been reported by the committee were persisted in. But I nevertheless did entertain the most confident hopes and expectations that the bill would receive the sanction of the President; and this motive, although not the immediate one, had great weight in the introduction and adoption of the compromise clause. I knew that our friends who would not vote for the bill as reported were actuated, as they avowed, by considerations of union and harmony, growing out of supposed views of the President, and I presumed that he would not fail to feel and appreciate their sacrifices. But I deeply regret that we were mistaken. Notwithstanding all our concessions, made in a genuine and sincere spirit of conciliation, the sanction of the President could not be obtained, and the bill has been returned by him with his objections.

And I shall now proceed to consider those objections, with as much brevity as possible, but with the most perfect respect, official and personal, towards the Chief Magistrate.

After stating that the power of Congress to establish a national bank, to operate *per se*, has been a controverted question from the origin of the Government, the President remarks:

"Men most justly and deservedly esteemed for their high intellectual endowments, their virtue and their patriotism, have, in regard to it, entertained different and conflicting opinions. Congresses have differed. The approval of one President has been followed by the disapproval of another."

From this statement of the case, it may be inferred that the President considers the weight of authority, pro and con, to be equal and balanced. But if he intended to make such an array of it—if he intended to say that it was in equilib-

rium—I must respectfully, but most decidedly, dissent from him. I think the joint testimony of history, tradition, and the knowledge of living witnesses prove the contrary. How stands the question as to the opinion of Congresses? The Congress of 1791, the Congress of 1813-'14, the Congress of 1815-'16, the Congress of 1831-'32, and, finally, the present Congress, have all respectively and unequivocally affirmed the existence of a power in Congress to establish a national bank to operate *per se*. We behold, then, the concurrent opinion of five different Congresses on one side. And what Congress is there on the opposite side? The Congress of 1811? I was a member of the Senate in that year, when it decided, by the casting vote of the Vice President, against the renewal of the charter of the old Bank of the United States. And I now here, in my place, add to the testimony already before the public, by declaring that it is within my certain knowledge that that decision of the Senate did not proceed from a disbelief of a majority of the Senate in the power of Congress to establish a national bank, but from combined considerations of expediency and constitutionality. A majority of the Senate, on the contrary, as I know, entertained no doubt as to the power of Congress. Thus the account, as to Congresses, stands five for and not one, or, at most, not more than one, against the power.

Let us now look into the state of authority derivable from the opinions of Presidents of the United States. President Washington believed in the power of Congress, and approved a bank bill. President Jefferson approved acts to extend branches into other parts of the United States, and to punish counterfeiters of the notes of the bank—acts which were devoid of all justification whatever upon the assumption of the unconstitutionality of the bank. For how could branches be extended or punishment be lawfully inflicted upon the counterfeiters of the paper of a corporation which came into existence without any authority, and in violation of the Constitution of the land? James Madison, notwithstanding those early scruples which he had entertained, and which he probably still cherished, sanctioned and signed a bill to charter the late Bank of the United States. It is perfectly well known that Mr. Monroe never did entertain any scruples or doubts in regard to the power of Congress. Here, then, are four Presidents of the United States who have directly or collaterally borne official testimony to the existence of the bank power in Congress. And what President is there that ever bore unequivocally opposite testimony—that disapproved a bank charter in the sense intended by President Tyler? General Jackson, although he did apply the veto power to the bill for rechartering the late Bank of the United States in 1832, it is within the perfect recollection of us all that he not only testified to the utility of a Bank of the United States, but declared that, if he had been applied to by Congress, he could have furnished the plan of such a bank.

Thus, Mr. President, we perceive that, in reviewing the action of the Legislative and Executive departments of the Government, there is a vast preponderance of the weight of authority maintaining the existence of the power in Congress. But President Tyler has, I presume unintentionally, wholly omitted to notice the judgment and decisions of the third co-ordinate department of the Government upon this controverted question—that department whose interpretations of the Constitution, within its proper jurisdiction and sphere of action, are binding upon all; and which, therefore, may be considered as exercising a controlling power over both the other departments. The Supreme Court of the United States, with its late Chief Justice, the illustrious Marshall, at its head, unanimously decided that Congress possessed this bank power; and this adjudication was sustained and reaffirmed whenever afterwards the question arose before the court.

After recounting the occasions, during his public career, on which he had expressed an opinion against the power of Congress to charter a Bank of the United States, the President proceeds to say: "Entertaining the opinions alluded to, and having taken this oath, the Senate and the country will see that I could not

give my sanction to a measure of the character described without surrendering all claim to the respect of honorable men—all confidence on the part of the People—all self-respect—all regard for moral and religious obligations; without an observance of which no Government can be prosperous, and no people can be happy. It would be to commit a *crime* which I would not wilfully commit to gain any earthly reward, and which would *justly* subject me to the ridicule and scorn of all virtuous men."

Mr. President, I must think, and hope I may be allowed to say, with profound deference to the Chief Magistrate, that it appears to me he has viewed with too lively sensibility the personal consequences to himself of his approval of the bill; and that, surrendering himself to a vivid imagination, he has depicted them in much too glowing and exaggerated colors; and that it would have been most happy if he had looked more to the deplorable consequences of a veto upon the hopes, the interests, and the happiness of his country. Does it follow that a magistrate who yields his private judgment to the concurring authority of numerous decisions, repeatedly and deliberately pronounced, after the lapse of long intervals, by all the departments of Government, and by all parties, incurs the dreadful penalties described by the President? Can any man be disgraced and dishonored who yields his private opinion to the judgment of the nation? In this case, the country, (I mean a majority,) Congress, and, according to common fame, a unanimous cabinet, were all united in favor of the bill. Should any man feel himself humbled and degraded in yielding to the conjoint force of such high authority? Does any man, who, at one period of his life shall have expressed a particular opinion, and at a subsequent period shall act upon the opposite opinion, expose himself to the terrible consequences which have been portrayed by the President? How is it with the judge, in the case by no means rare, who bows to the authority of repeated precedents, settling a particular question, whilst, in his private judgment, the law was otherwise? How is it with that numerous class of public men in this country, and with the two great parties that have divided it, who, at different periods, have maintained and acted on opposite opinions in respect to this very bank question?

How is it with James Madison, the Father of the Constitution—that great man whose services to his country placed him only second to Washington—whose virtues and purity in private life—whose patriotism, intelligence, and wisdom in public councils stand unsurpassed? He was a member of the National Convention that formed, and of the Virginia Convention that adopted, the Constitution. No man understood it better than he did. He was opposed in 1791 to the establishment of the Bank of the United States upon constitutional ground; and, in 1816, he approved and signed the charter of the late Bank of the United States. It is a part of the secret history connected with the first bank, that James Madison had, at the instance of General Washington, prepared a veto for him in the contingency of his rejection of the bill. Thus stood James Madison when, in 1815, he applied the veto to a bill to charter a bank upon considerations of expediency, but with a clear and express admission of the existence of a constitutional power in Congress to charter one. In 1816, the bill which was then presented to him being free from the objections applicable to that of the previous year, he sanctioned and signed it. Did James Madison surrender "all claim to the respect of honorable men—all confidence on the part of the People—all self-respect—all regard for moral and religious obligations?" Did the pure, the virtuous, the gifted James Madison, by his sanction and signature to the charter of the late Bank of the United States, commit a *crime* which *justly* subjected him "to the ridicule and scorn of all virtuous men?"

Not only did the President, as it respectfully appears to me, state entirely too strongly the consequences of his approval of the bill, but is he perfectly correct in treating the question (as he seems to me to have done) which he was called upon

to decide, as presenting the sole alternative of his direct approval or rejection of the bill? Was the preservation of the consistency and the conscience of the President wholly irreconcilable with the restoration of the blessings of a sound currency, regular and moderate exchanges, and the revival of confidence and business which Congress believes will be secured by a national bank? Was there no alternative but to prolong the sufferings of a bleeding country, or to send us this veto? From the administration of the Executive department of the Government, during the last twelve years, has sprung most of the public ills which have afflicted the People. Was it necessary that that source of suffering should continue to operate, in order to preserve the conscience of the President unviolated? Was that the only sad and deplorable alternative? I think, Mr. President, there were other alternatives worthy of the serious and patriotic consideration of the President. The bill might have become a law in virtue of the provision which required its return within ten days. If the President had retained it three days longer, it would have been a law without his sanction and without his signature. In such a contingency, the President would have remained passive, and would not have been liable to any accusation of having himself violated the Constitution. All that could have been justly said would be, that he did not choose to throw himself in the way as an obstacle to the passage of a measure indispensable to the prosperity of the nation, in the judgment of the party which brought him into power, of the Whig Congress which he first met, and, if public fame speaks true, of the Cabinet which the lamented Harrison called around him, and which he voluntarily continued. In an analogous case, Thomas McKean, when Governor of Pennsylvania, than whom the United States have produced but few men of equal vigor of mind and firmness of purpose, permitted a bill to become a law, although, in his opinion, it was contrary to the Constitution of that State. And I have heard, and, from the creditable nature of the source, I am inclined to believe, although I will not vouch for the fact, that, towards the close of the charter of the first Bank of the United States, during the second term of Mr. Jefferson, some consideration of the question of the renewal of the charter was entertained, and that he expressed a wish that, if the charter were renewed, it might be effected by the operation of the ten days' provision, and his consistency thus preserved.

If it were possible to disinter the venerated remains of James Madison, reanimate his perishing form, and place him once more in that chair of state which he so much adorned, what would have been his course, if this bill had been presented to him, even supposing him never to have announced his acquiescence in the settled judgment of the nation? He would have said that human controversy in regard to a single question should not be perpetual, and ought to have a termination. This, about the power to establish a Bank of the United States, has been long enough continued. The nation, under all the forms of its public action, has often and deliberately decided it. A bank, and associated financial and currency questions, which had long slept, were revived and have divided the nation during the last ten years of arduous and bitter struggle; and the party which put down the bank, and which occasioned all the disorders in our currency and finances, has itself been signally put down by one of those great moral and political revolutions which a free and patriotic People can but seldom arouse itself to make. Human infallibility has not been granted by God; and the chances of error are much greater on the side of one man than on that of the majority of a whole People and their successive Legislatures during a long period of time. I yield to the irresistible force of authority. I will not put myself in opposition to a measure so imperatively demanded by the public voice, and so essential to elevate my depressed and suffering countrymen.

And why should not President Tyler have suffered the bill to become a law without his signature? Without meaning the slightest possible disrespect to him, (nothing is further from my heart than the exhibition of any such feeling towards

that distinguished citizen, long my personal friend,) it cannot be forgotten that he came into his present office under peculiar circumstances. The People did not foresee the contingency which has happened. They voted for him as Vice President. They did not, therefore, scrutinize his opinions with the care which they probably ought to have done, and would have done, if they could have looked into futurity. If the present state of the fact could have been anticipated—if at Harrisburg, or at the polls, it had been foreseen that General Harrison would die in one short month after the commencement of his administration; that Vice President Tyler would be elevated to the Presidential chair; that a bill, passed by decisive majorities of the first Whig Congress, chartering a national bank, would be presented for his sanction; and that he would veto the bill—do I hazard any thing when I express the conviction that he would not have received a solitary vote in the nominating Convention, nor one solitary electoral vote in any State in the Union?

Shall I be told that the honor, the firmness, the independence of the Chief Magistrate might have been drawn in question if he had remained passive, and so permitted the bill to become a law? I answer that the office of Chief Magistrate is a sacred and exalted trust, created and conferred for the benefit of the nation, and not for the private advantage of the person who fills it. Can any man's reputation for firmness, independence, and honor, be of more importance than the welfare of a great People? There is nothing, in my humble judgment, in such a course, incompatible with honor, with firmness, with independence, properly understood. Certainly, I must respectfully think, in reference to a measure like this, recommended by such high sanctions—by five Congresses—by the authority of four Presidents—by repeated decisions of the Supreme Court—by the acquiescence and judgment of the People of the United States during long periods of time—by its salutary operation on the interests of the community for a space of forty years, and demanded by the People whose suffrages placed President Tyler in that second office from whence he was translated to the first, that he might have suppressed the promptings of all personal pride of private opinion, if any arose in his bosom, and yielded to the wishes and wants of his country. Nor do I believe that, in such a course, he would have made the smallest sacrifice, in a just sense, of personal honor, firmness, or independence.

But, sir, there was still a third alternative, to which I allude, not because I mean to intimate that it should be embraced, but because I am reminded of it by a memorable event in the life of President Tyler. It will be recollected that, after the Senate had passed the resolution declaring the removal of the public deposits from the late Bank of the United States to have been derogatory from the Constitution and laws of the United States, for which resolution President, then Senator, Tyler had voted, the General Assembly of Virginia instructed the Senators from that State to vote for the expunging of that resolution. Senator Tyler declined voting in conformity with that instruction, and resigned his seat in the Senate of the United States. This he did because he could not conform, and did not think it right to go counter, to the wishes of those who had placed him in the Senate. If, when the People of Virginia, or the General Assembly of Virginia were his only constituency, he would not set up his own particular opinion in opposition to theirs, what ought to be the rule of his conduct when the People of twenty-six States—a whole nation—compose his constituency? Is the will of the constituency of one State to be respected, and that of twenty-six to be wholly disregarded? Is obedience due only to the single State of Virginia? The President admits that the bank question deeply agitated and continues to agitate the nation. It is incontestable that it was the great, absorbing, and controlling question, in all our recent divisions and exertions. I am firmly convinced, and it is my deliberate judgment, that an immense majority, not less than two-thirds of the nation, desire such an institution. All doubts in this respect ought to be dispelled by the

recent decisions of the two Houses of Congress. I speak of them *as evidence* of popular opinion. In the House of Representatives, the majority was 131 to 100. If the House had been full, and but for the modification of the 16th fundamental condition, there would have been a probable majority of 47. Is it to be believed that this large majority of the immediate Representatives of the People, fresh from amongst them, and to whom the President seemed inclined, in his opening message, to refer this very question, have mistaken the wishes of their constituents?

I pass to the sixteenth fundamental condition, in respect to the branching power, on which I regret to feel myself obliged to say that I think the President has commented with unexampled severity, and with a harshness of language not favorable to the maintenance of that friendly and harmonious intercourse which is so desirable between co-ordinate departments of the Government. The President could not have been uninformed that every one of the twenty-six Senators, and every one of the hundred and thirty-one Representatives who voted for the bill, if left to his own separate wishes, would have preferred the branching power to have been conferred unconditionally, as it was in the charters of the two former Banks of the United States. In consenting to the restrictions upon the exercise of that power, he must have been perfectly aware that they were actuated by a friendly spirit of compromise and concession. Yet nowhere in his message does he reciprocate or return this spirit. Speaking of the assent or dissent which the clause requires, he says: "This *iron* rule is to give way to no circumstances—it is unbending and inflexible. It is the language of the master to the vassal. An unconditional answer is claimed *forthwith*." The "high privilege" of a submission of the question, on the part of the State Representatives, to their constituents, according to the message, is denied. He puts the cases of the popular branch of the State Legislature expressing its dissent "by a unanimous vote, and its resolution may be defeated by a tie vote in the Senate," and "both branches of the Legislature may concur in a resolution of decided dissent, and yet the Governor may exert the veto power conferred on him by the State Constitution, and their legislative action be defeated." "The State may afterwards *protest* against such unjust inference, but its authority is *gone*." The President continues: "To inferences so violent, and, as they seem to me, *irrational*, I cannot yield my consent. No court of justice would or could sanction them, without reversing all that is established in judicial proceeding, by introducing presumptions *at variance with fact*, and inferences *at the expense of reason*. A State in a condition of duress would be presumed to speak as an individual, manacled and in prison, might be presumed to be in the enjoyment of freedom. Far better to say to the States, boldly and frankly, *Congress wills, and submission is demanded*."

Now, Mr. President, I will not ask whether these animadversions were prompted by a reciprocal spirit of amity and kindness, but I inquire whether all of them are perfectly just.

Beyond all question, those who believed in the constitutional right of Congress to exercise the branching power within the States, unconditionally and without limitation, did make no small concession when they consented that it should be subjected to the restrictions specified in the compromise clause. They did not, it is true, concede every thing; they did not absolutely renounce the power to establish branches without the authority of the States during the whole period of the existence of the charter; but they did agree that reasonable time should be allowed to the several States to determine whether they would or would not give their assent to the establishment of branches within their respective limits. They did not think it right to leave it an open question, for the space of twenty years; nor that a State should be permitted to grant to-day and revoke to-morrow its assent; nor that it should annex onerous or impracticable conditions to its assent, but that it should definitively decide the question, after the lapse of ample time for full deliberation. And what was that time? No State would have had less than four months, and

some of them from five to nine months, for consideration. Was it, therefore, entirely correct for the President to say that an "unconditional answer is claimed *forthwith*?" *Forthwith* means immediately, instantly, without delay, which cannot be affirmed of a space of time varying from four to nine months. And the President supposes that the "high privilege" of the members of the State Legislature submitting the question to their constituents is denied. But could they not at any time during that space have consulted their constituents?

The President proceeds to put what I must, with the greatest deference and respect, consider as extreme cases. He supposes the popular branch to express its dissent by a unanimous vote, which is overruled by a tie in the Senate. He supposes that "both branches of the Legislature may concur in a resolution of decided dissent, and yet the Governor may exert the veto power." The unfortunate case of the State whose legislative will should be so checked by Executive authority, would not be worse than that of the Union, the will of whose Legislature, in establishing this bank, is checked and controlled by the President.

But did it not occur to him that extreme cases brought forward on the one side, might be met by extreme cases suggested on the other? Suppose the popular branch were to express its *assent* to the establishment of a branch bank by a unanimous vote, which is overruled by an equal vote in the Senate. Or suppose that both branches of the Legislature, by majorities in each exactly wanting one vote to make them two-thirds, were to concur in a resolution inviting the introduction of a branch within the limits of the State, and the Governor were to exercise the veto power, and defeat the resolution. Would it be very unreasonable in these two cases to infer the assent of the State to the establishment of a bank?

Extreme cases should never be resorted to. Happily for mankind, their affairs are but seldom affected or influenced by them, in consequence of the rarity of their occurrence.

The plain, simple, unvarnished statement of the case is this: Congress believes itself invested with constitutional power to authorize, unconditionally, the establishment of a Bank of the United States and branches, anywhere in the United States, without asking any other consent of the States than that which is already expressed in the Constitution. The President does not concur in the existence of that power, and was supposed to entertain an opinion that the previous assent of the States was necessary. Here was an unfortunate conflict of opinion. Here was a case for compromise and mutual concession, if the difference could be reconciled. Congress advanced so far towards a compromise as to allow the States to express their assent or dissent, but then it thought that this should be done within some limited, but reasonable time; and it believed, since the bank and its branches were established for the benefit of twenty-six States, if the authorities of any one of them really could not make up their mind within that limited time either to assent or dissent to the introduction of a branch, that it was not unreasonable, after the lapse of the appointed time, without any positive action, one way or the other, on the part of the State, to proceed as if it had assented. Now, if the power contended for by Congress really exists, it must be admitted that here was a concession—a concession, according to which an unconditional power is placed under temporary restrictions—a privilege offered to the States which was not extended to them by either of the charters of the two former Banks of the United States. And I am totally at a loss to comprehend how the President reached the conclusion that it would have been "far better to say to the States, boldly and frankly, Congress wills, and submission is demanded." Was it better for the States that the power of branching should be exerted without consulting them at all? Was it nothing to afford them an opportunity of saying whether they desired branches or not? How can it be believed that a clause which qualifies, restricts, and limits the branching power, is more derogatory from the dignity, independence, and sovereignty of the States, than if it inexorably refused to

the States any power whatever to deliberate and decide on the introduction of branches? Limited as the time was, and unconditionally as they were required to express themselves, still these States (and that probably would have been the case with the greater number) that chose to announce their assent or dissent could do so, and get or prevent the introduction of a branch. But the President remarks that "the State may express, after the most solemn form of legislation, 'its dissent, which may from time to time thereafter be repeated, in full view of 'its own interest, which can never be separated from the wise and beneficent operation of this Government; and yet Congress may, by virtue of the last proviso, 'overrule its law, and upon grounds which, to such State, will appear to rest on 'a constructive necessity and propriety, and nothing more.'"

Even if the dissent of a State should be overruled, in the manner supposed by the President, how is the condition of that State worse than it would have been if the branching power had been absolutely and unconditionally asserted in the charter? There would have been at least the power of dissenting conceded, with a high degree of probability that if the dissent were expressed no branch would be introduced.

The last proviso to which the President refers is in these words: "And provided, nevertheless, That whenever it shall become necessary and proper for 'carrying into execution any of the powers granted by the Constitution, to establish an office or offices in any of the States whatever, and the establishment 'thereof shall be directed by law, it shall be the duty of the said directors to establish such office or offices accordingly."

This proviso was intended to reserve a power to Congress to compel the bank to establish branches, if the establishment of them should be necessary to the great purposes of this Government, notwithstanding the dissent of a State. If, for example, a State had once unconditionally dissented to the establishment of a branch, and afterwards assented, the bank could not have been compelled, without this reservation of power, to establish the branch, however urgent the wants of the Treasury might be.

The President, I think, ought to have seen, in the form and language of the proviso, the spirit of conciliation in which it was drawn, as I know. It does not assert the power; it employs the language of the Constitution itself, leaving every one free to interpret that language according to his own sense of the instrument.

Why was it deemed necessary to speak of its being "the language of the master to the vassal," of "this iron rule," that "Congress wills, and submission is demanded?" What is this whole Federal Government but a mass of powers abstracted from the sovereignty of the several States, and wielded, by an organized Government, for their common defence and general welfare, according to the grants of the Constitution? These powers are necessarily supreme; the Constitution, the acts of Congress, and treaties being so declared by the express words of the Constitution. Whenever, therefore, this Government acts within the powers granted to it by the Constitution, submission and obedience are due from all; from States as well as from persons. And if this present the image of a master and a vassal, of State subjection and Congressional domination, it is the Constitution, created or consented to by the States, that ordains these relations. Nor can it be said, in the contingency supposed, that an act of Congress has *repealed* an act of State legislation. Undoubtedly, in case of a conflict between a State Constitution or State law, and the Constitution of the United States, or an act of Congress passed in pursuance of it, the State Constitution or State law would yield. But it could not at least be formally or technically said that the State Constitution or law was repealed. Its operation would be suspended or abrogated by the necessary predominance of the paramount authority.

The President seems to have regarded as objectionable that provision in the clause which declares that a branch being once established, it should not after-

wards be withdrawn or removed without the previous consent of Congress. That provision was intended to operate both upon the bank and the States. And, considering the changes and fluctuations in public sentiment in some of the States within the last few years, was the security against them to be found in that provision unreasonable? One Legislature might invite a branch, which the next might attempt, by penal or other legislation, to drive away. We have had such examples heretofore; and I cannot think that it was unwise to profit by experience. Besides, an exactly similar provision was contained in the scheme of a bank which was reported by the Secretary of the Treasury, and to which it was understood the President had given his assent. But, if I understand this message, that scheme could not have obtained his sanction, if Congress had passed it without any alteration whatever. It authorized what is termed by the President local discounts, and he does not believe the Constitution confers on Congress power to establish a bank having that faculty. He says, indeed, "I regard the bill as asserting for Congress the right to incorporate a United States Bank, with power and right to establish offices of discount and deposite in the several States of this Union, *with or without their consent; a principle to which I have always heretofore been opposed, and which can never obtain my sanction.*" I pass with pleasure from this painful theme, deeply regretting that I have been constrained so long to dwell on it.

On a former occasion I stated that, in the event of an unfortunate difference of opinion between the Legislative and Executive departments, the point of difference might be developed, and it would be then seen whether they could be brought to coincide in any measure corresponding with the public hopes and expectations. I regret that the President has not, in this message, favored us with a more clear and explicit exhibition of his views. It is sufficiently manifest that he is decidedly opposed to the establishment of a new Bank of the United States formed after the two old models. I think it is fairly to be inferred that the plan of the Secretary of the Treasury could not have received his sanction. He is opposed to the passage of the bill which he has returned; but whether he would give his approbation to any bank, and, if any, what sort of a bank, is not absolutely clear. I think it may be collected from the message, with the aid of information derived through other sources, that the President would concur in the establishment of a bank whose operations should be limited to dealing in bills of exchange, to deposits, and to the supply of a circulation, excluding the power of discounting promissory notes. And I understand that some of our friends are now considering the practicability of arranging and passing a bill in conformity with the views of President Tyler. Whilst I regret that I can take no active part in such an experiment, and must reserve to myself the right of determining whether I can or cannot vote for such a bill after I see it in its matured form, I assure my friends that they shall find no obstacle or impediment in me. On the contrary, I say to them, go on: God speed you in any measure which will serve the country, and preserve or restore harmony and concert between the Departments of Government. An Executive veto of a Bank of the United States, after the sad experience of late years, is an event which was not anticipated by the political friends of the President; certainly not by me. But it has come upon us with tremendous weight, and amidst the greatest excitement within and without the metropolis. The question now is, What shall be done? What, under this most embarrassing and unexpected state of things, will our constituents expect of us? What is required by the duty and the dignity of Congress? I repeat, that if, after a careful examination of the Executive message, a bank can be devised which will afford any remedy to existing evils, and secure the President's approbation, let the project of such a bank be presented. It shall encounter no opposition, if it should receive no support, from me.

But what further shall we do? Never, since I have enjoyed the honor of par-

icipating in the public councils of the nation—a period now of near thirty-five years—have I met Congress under more happy or more favorable auspices. Never have I seen a House of Representatives animated by more patriotic dispositions—more united, more determined, more business-like. Not even that House which declared war in 1812; nor that which in 1815-'16 laid broad and deep foundations of national prosperity, in adequate provisions for a sound currency, by the establishment of a Bank of the United States, for the payment of the national debt, and for the protection of American industry. This House has solved the problem of the competency of a large deliberative body to transact the public business. If happily there had existed a concurrence of opinion and cordial co-operation between the different departments of the Government, and all the members of the party, we should have carried every measure contemplated at the extra session, which the People had a right to expect from our pledges, and should have been, by this time, at our respective homes. We are disappointed in one, and an important one, of that series of measures; but shall we therefore despair? Shall we abandon ourselves to unworthy feelings and sentiments? Shall we allow ourselves to be transported by rash and intemperate passions and counsels? Shall we adjourn and go home in disgust? No! No! No! A higher, nobler, and more patriotic career lies before us. Let us here, at the east end of Pennsylvania avenue, do our duty, our whole duty, and nothing short of our duty, towards our common country. We have repealed the sub-Treasury. We have passed a bankrupt law, a beneficent measure of substantial and extensive relief. Let us now pass the bill for the distribution of the proceeds of the public lands, the revenue bill, and the bill for the benefit of the oppressed people of this District. Let us do all—let us do every thing we can for the public good. If we are finally to be disappointed in our hopes of giving to the country a bank which will once more supply it with a sound currency, still let us go home and tell our constituents that we did all that we could under actual circumstances; and that, if we did not carry every measure for their relief, it was only because to do so was impossible. If nothing can be done at this extra session to put upon a more stable and satisfactory basis the currency and exchanges of the country, let us hope that hereafter some way will be found to accomplish that most desirable object, either by an amendment of the Constitution limiting and qualifying the enormous Executive power, and especially the veto, or by increased majorities in the two Houses of Congress competent to the passage of wise and salutary laws, the President's objections notwithstanding.

This seems to me to be the course now incumbent upon us to pursue; and, by conforming to it, whatever may be the result of laudable endeavors now in progress or in contemplation in relation to a new attempt to establish a bank, we shall go home bearing no self-reproaches for neglected or abandoned duty.

Mr. RIVES having replied to the remarks of Mr. CLAY—

Mr. CLAY rose in rejoinder. I have no desire, said he, to prolong this unpleasant discussion, but I must say that I heard with great surprise and regret the closing remark, especially, of the honorable gentleman from Virginia, as, indeed, I did many of those which preceded it. That gentleman stands in a peculiar situation. I found him several years ago in the *half-way house*, where he seems afraid to remain, and from which he is yet unwilling to go. I had thought, after the thorough riddling which the roof of the house had received in the breaking up of the pet-bank system, he would have fled somewhere else for refuge; but there he still stands, solitary and alone, shivering and pelted by the pitiless storm. The sub-Treasury is repealed—the pet-bank system is abandoned—the United States bank bill is vetoed—and now, when there is as complete and perfect a re-union of the purse and the sword in the hands of the Executive as ever there was under General Jackson or Mr. Van Buren, the Senator is for doing nothing! The Sen-

ator is for going home, leaving the Treasury and the country in their lawless condition! Yet no man has heretofore, more than he has, deplored and deprecated a state of things so utterly unsafe and repugnant to all just precautions, indicated alike by sound theory and experience in free Governments. And the Senator talks to us about applying to the wisdom of practical men, in respect to banking, and advises further deliberation! Why, I should suppose that we are at present in the very best situation to act upon the subject. Besides the many painful years we have had for deliberation, we have been near three months almost exclusively engrossed with the very subject itself. We have heard all manner of facts, statements, and arguments in any way connected with it. We understand, it seems to me, all we ever can learn or comprehend about a national bank. And we have, at least, some conception too of what sort of one will be acceptable at the other end of the avenue. Yet now, with a vast majority of the People of the entire country crying out to us for a bank—with the People throughout the whole valley of the Mississippi rising in their majesty, and demanding it as indispensable to their well-being, and pointing to their losses, their sacrifices, and their sufferings, for the want of such an institution—in such a state of things, we are gravely and coldly told by the honorable Senator from Virginia that we had best go home, leaving the purse and the sword in the uncontrolled possession of the President, and, above all things, never to make a party bank! Why, sir, does he, with all his knowledge of the conflicting opinions which prevail here, and have prevailed, believe that we ever can make a bank but by the votes of one party who are in favor of it, in opposition to the votes of another party against it? I deprecate this expression of opinion from that gentleman the more, because, although the honorable Senator professes not to know the opinions of the President, it certainly does turn out in the sequel that there is a most remarkable coincidence between those opinions and his own; and he has, on the present occasion, defended the motives and the course of the President with all the solicitude and all the fervent zeal of a member of his *Privy Council*. [A laugh.] There is a rumor abroad that a *cabal* exists—a new sort of Kitchen Cabinet—whose object is the dissolution of the regular Cabinet—the dissolution of the Whig party—the dispersion of Congress, without accomplishing any of the great purposes of the extra session—and a total change, in fact, in the whole face of our political affairs. I hope, and I persuade myself, that the honorable Senator is not, cannot be, one of the component members of such a cabal; but I must say that there has been displayed by the honorable Senator to-day a predisposition, astonishing and inexplicable, to misconceive almost all of what I have said, and a perseverance, after repeated corrections, in misunderstanding—for I will not charge him with wilfully and intentionally misrepresenting—the whole spirit and character of the address which, as a man of honor and as a Senator, I felt myself bound in duty to make to this body.

The Senator begins with saying that I charge the President with “perfidy!” Did I use any such language? I appeal to every gentleman who heard me to say whether I have in a single instance gone beyond a fair and legitimate examination of the Executive objections to the bill. Yet he has charged me with “arraigning” the President, with indicting him in various counts, and with imputing to him motives such as I never even intimated or dreamed, and that, when I was constantly expressing, over and over, my personal respect and regard for President Tyler, for whom I have cherished an intimate personal friendship of twenty years’ standing, and while I expressly said that, if that friendship should now be interrupted, it should not be my fault! Why, sir, what possible, what conceivable motive can I have to quarrel with the President, or to break up the Whig party? What earthly motive can impel me to wish for any other result than that that party shall remain in perfect harmony, undivided, and shall move undismayed, boldly, and unitedly forward to the accomplishment of the all-important public objects

which it has avowed to be its aim? What imaginable interest or feeling can I have other than the success, the triumph, the glory of the Whig party? But that there may be designs and purposes on the part of certain other individuals to place me in inimical relations with the President, and to represent me as personally opposed to him, I can well imagine—individuals who are beating up for recruits, and endeavoring to form a third party with materials so scanty as to be wholly insufficient to compose a decent corporal's guard. I fear there are such individuals, though I do not charge the Senator as being himself one of them. What a spectacle has been presented to this nation during this entire session of Congress! That of the cherished and confidential friends of John Tyler, persons who boast and claim to be, *par excellence*, his exclusive and genuine friends, being the bitter, systematic, determined, uncompromising opponents of every leading measure of John Tyler's administration! Was there ever before such an example presented, in this or any other age, in this or any other country? I have myself known the President too long, and cherished towards him too sincere a friendship, to allow my feelings to be affected or alienated by any thing which has passed here to-day. If the President chooses—which I am sure he cannot, unless falsehood has been whispered into his ears, or poison poured into his heart—to detach himself from me, I shall deeply regret it, for the sake of our common friendship and our common country. I now repeat, what I before said, that, of all the measures of relief which the American People have called upon us for, that of a national bank and a sound and uniform currency has been the most loudly and importunately demanded. The Senator says that the question of a bank was not the issue made before the People at the late election. I can say, for one, my own conviction is diametrically the contrary. What may have been the character of the canvass in Virginia, I will not say; probably gentlemen on both sides were, every where, governed in some degree by considerations of local policy. What issues may, therefore, have been presented to the people of Virginia, either above or below tide-water, I am not prepared to say. The great error, however, of the honorable Senator is in thinking that the sentiments of a particular party in Virginia are always a fair exponent of the sentiments of the whole Union. [A laugh.] I can tell that Senator that wherever I was—in the great valley of the Mississippi—in Kentucky—in Tennessee—in Maryland—in all the circles in which I moved—every where, “Bank or no Bank” was the great, the leading, the vital question. At Hanover, in Virginia, during the last summer, at one of the most remarkable and respectable and gratifying assemblages that I ever attended, I distinctly announced my conviction that a Bank of the United States was indispensable. As to the opinions of General Harrison, I know that, like many others, he had entertained doubts as to the constitutionality of a bank; but I also know that, as the election approached, his opinions turned more and more in favor of a national bank; and I speak from my own personal knowledge of his opinions when I say that I have no more doubt he would have signed that bill than that you, Mr. President, now occupy that chair, or that I am addressing you.

I rose not to say one word which should wound the feelings of President Tyler. The Senator says that, if placed in like circumstances, I would have been the last man to avoid putting a direct veto upon the bill, had it met my disapprobation; and he does me the honor to attribute to me high qualities of stern and unbending intrepidity. I hope that in all that relates to personal firmness—all that concerns a just appreciation of the insignificance of human life—whatever may be attempted to threaten or alarm a soul not easily swayed by opposition, or awed or intimidated by menace—a stout heart and a steady eye that can survey, unmoved and undaunted, any mere personal perils that assail this poor transient, perishing frame, I may, without disparagement, compare with other men. But there is a sort of courage which, I frankly confess it, I do not possess—a boldness to which I dare not aspire—a valor which I cannot covet. I cannot lay myself down in the way

of the welfare and happiness of my country. That I cannot, I have not the courage to do. I cannot interpose the power with which I may be invested—a power conferred, not for my personal benefit, nor for my aggrandizement, but for my country's good—to check her onward march to greatness and glory. I have not courage enough, I am too cowardly, for that. I would not, I dare not, in the exercise of such a trust, lie down, and place my body across the path that leads my country to prosperity and happiness. This is a sort of courage widely different from that which a man may display in his private conduct and personal relations. Personal or private courage is totally distinct from that higher and nobler courage which prompts the patriot to offer himself a voluntary sacrifice to his country's good.

Nor did I say, as the Senator represents, that the President should have resigned. I intimated no personal wish or desire that he should resign. I referred to the fact of a memorable resignation in his public life. And what I did say was, that there were other alternatives before him besides vetoing the bill; and that it was worthy of his consideration whether consistency did not require that the example which he had set when he had a constituency of one State, should not be followed when he had a constituency commensurate with the whole Union. Another alternative was, to suffer the bill, without his signature, to pass into a law under the provisions of the Constitution. And I must confess I see, in this, no such escaping by the back-door, no such jumping out of the window, as the Senator talks about. Apprehensions of the imputation of the want of firmness sometimes impel us to perform rash and inconsiderate acts. It is the greatest courage to be able to bear the imputation of the want of courage. But pride, vanity, egotism, so unamiable and offensive in private life, are vices which partake of the character of crimes in the conduct of public affairs. The unfortunate victim of these passions cannot see beyond the little, petty, contemptible circle of his own personal interests. All his thoughts are withdrawn from his country, and concentrated on his consistency, his firmness, himself. The high, the exalted, the sublime emotions of a patriotism, which, soaring towards Heaven, rises far above all mean, low, or selfish things, and is absorbed by one soul-transporting thought of the good and the glory of one's country, are never felt in his impenetrable bosom. That patriotism which, catching its inspirations from the immortal God, and leaving at an immeasurable distance below all lesser, grovelling, personal interests and feelings, animates and prompts to deeds of self-sacrifice, of valor, of devotion, and of death itself—that is public virtue—that is the noblest, the sublimest of all public virtues!

I said nothing of any obligation on the part of the President to conform his judgment to the opinions of the Senate and House of Representatives, although the Senator argued as if I had, and persevered in so arguing, after repeated corrections. I said no such thing. I know and respect the perfect independence of each department, acting within its proper sphere, of other departments. But I referred to the majorities in the two Houses of Congress as further and strong evidence of the opinion of the People of the United States in favor of the establishment of a Bank of the United States. And I contended that, according to the doctrine of instructions which prevailed in Virginia, and of which the President is a disciple, and in pursuance of the example already cited, he ought not to have rejected the bill.

I have heard that, on his arrival at the seat of the General Government to enter upon the duties of the office of Vice President, in March last, when interrogated how far he meant to conform, in his new station, to certain peculiar opinions which were held in Virginia, he made this patriotic and noble reply: "I am Vice President of the United States, and not of the State of Virginia; and I shall be governed by the wishes and opinions of my constituents." When I heard of this encouraging and satisfactory reply, believing, as I most religiously do, that a

large majority of the People of the United States are in favor of a national bank, (and gentlemen may shut their eyes to the fact, deny or dispute, or reason it away as they please, but it is my conscientious conviction that two-thirds, if not more, of the People of the United States desire such an institution,) I thought I beheld a sure and certain guaranty for the fulfilment of the wishes of the People of the United States. I thought it impossible that the wants and wishes of a great People, who had bestowed such unbounded and generous confidence, and conferred on him such exalted honors, should be disregarded and disappointed. It did not enter into my imagination to conceive that one, who had shown so much deference and respect to the presumed sentiments of a single State, should display less towards the sentiments of the whole nation.

I hope, Mr. President, that, in performing the painful duty which had devolved on me, I have not transcended the limits of legitimate debate. I repeat, in all truth and sincerity, the assurance to the Senate and to the country, that nothing but a stern, reluctant, and indispensable sense of honor and of duty could have forced from me the response which I have made to the President's objections. But, instead of yielding without restraint to the feelings of disappointment and mortification excited by the perusal of his message, I have anxiously endeavored to temper the notice of it, which I have been compelled to take, by the respect due to the office of Chief Magistrate, and by the personal regard and esteem which I have ever entertained for its present incumbent.



3 1205 02446 7316

UC SOUTHERN REGIONAL LIBRARY FACILITY



AA 000 588 670 0

THE LIBRARY
UNIVERSITY OF CALIFORNIA
Santa Barbara

THIS BOOK IS DUE ON THE LAST DATE
STAMPED BELOW.

Series 9482

